

METROPOLITAN DEVELOPMENT COMMITTEE

DATE: January 25, 2010

CALLED TO ORDER: 5:34 p.m.

ADJOURNED: 8:11 p.m.

ATTENDANCE

Attending Members

Kent Smith, Chair
Jeff Cardwell
Jose Evans
Brian Mahern
Janice McHenry

Absent Members

Paul Bateman
Virginia Cain
Dane Mahern
Lincoln Plowman

AGENDA

PROPOSAL NO. 4, 2010 - approves the Mayor's appointment of Maury Plambeck as the director of the Department of Metropolitan Development
"Do Pass" Vote: 5-0

PROPOSAL NO. 5, 2010 - approves the Mayor's appointment of Rick Powers as the director of the Department of Code Enforcement
"Do Pass" Vote: 5-0

PROPOSAL NO. 6, 2010 - appoints James T. Kienle to the Indianapolis Historic Preservation Commission
"Do Pass" Vote: 5-0

PROPOSAL NO. 7, 2010 - appoints George W. Geib to the Indianapolis Historic Preservation Commission
"Do Pass" Vote: 5-0

PROPOSAL NO. 8, 2010 - appoints Anthony J. Bridgeman to the Board of Code Enforcement
"Do Pass" Vote: 5-0

PROPOSAL NO. 9, 2010 - appoints Roberto A. Ramirez to the Metropolitan Development Commission
"Do Pass" Vote: 1-4

PROPOSAL NO. 10, 2010 - reappoints Alan E. Retherford to the Metropolitan Board of Zoning Appeals, Division III
"Do Pass" Vote: 1-4

PROPOSAL NO. 11, 2010 - appoints Tasha M. Phelps to the Metropolitan Development Commission
"Do Pass" Vote: 5-0

PROPOSAL NO. 29, 2010 - appoints Darryl "Troy" Bell to the Metropolitan Board of Zoning Appeals, Division II
"Do Pass" Vote: 5-0

METROPOLITAN DEVELOPMENT COMMITTEE

The Metropolitan Development Committee of the City-County Council met on Monday, January 25, 2010. Chair Kent Smith called the meeting to order at 5:34 p.m. with the following members present: Jeff Cardwell, Jose Evans, Brian Mahern, and Janice McHenry. Absent were Paul Bateman, Virginia Cain, Dane Mahern and Lincoln Plowman

PROPOSAL NO. 4, 2010 - approves the Mayor's appointment of Maury Plambeck as the director of the Department of Metropolitan Development

Mr. Plambeck said that he has worked for the Department of Metropolitan Development (DMD) since 1988 and he is into his ninth year as the Director of DMD. He said that this department works with citizens to resolve issues and provide good public service. He said that he has all of the initiatives outlined for this year.

Councillor Evans asked about the day-to-day duties of DMD. Mr. Plambeck said that DMD has several divisions that have many different duties. The Community Economic Development Division's primary goal is to make sure Indianapolis-Marion County has a healthy economy. The Planning Division handles all of the land use petitions, variances, rezoning, and all the public hearings that go before the Metropolitan Development Commission (MDC). He said that the Planning Division also does long range planning for neighborhoods and county-wide. The Indianapolis Historic Preservation Commission (IHPC) reviews all development in locally designated historic districts. The Metropolitan Planning Organization (MPO) is another division within DMD that is responsible for all of the transportation planning for the nine-county Central Indiana region. There is also the Central Indiana Regional Transit Authority (CIRTA), which is responsible for developing and managing a mass transit system for the nine-county Central Indiana region. And lastly, there is the Neighborhood Services division, which is the Mayor's Neighborhood Liaisons that meet with neighborhood groups on a constant basis to make sure the city is connected with its citizens.

Councillor Brian Mahern said that recently there was a claw back settlement indicated in the Indiana Harvester newspaper. He asked what happens with the claw back funds. Mr. Plambeck said that the amount of money paid back to the city is \$5 million, and these funds will be used to provide more economic development in the city.

Councillor Cardwell asked if there are any particular tools that DMD would like the Council to pursue in the aspect of best practices that would help DMD in their pursuit for economic development. Mr. Plambeck said that economic development is providing a community that people want to live and work in. He said that they are working on form based zoning, which uses zoning to develop properties more like what the cities use to develop cities. He said that this type of development happens when buildings are closer, the neighborhoods are more walk-able and there is more influence on the design and the way people live.

Norman Pace, Marion County Alliance of Neighborhood Associations (MCANA), said that they are in support of the reappointment of Mr. Plambeck.

Councillor Cardwell moved, seconded by Councillor Brian Mahern, to send Proposal No. 4, 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 5-0.

PROPOSAL NO. 5, 2010 - approves the Mayor's appointment of Rick Powers as the director of the Department of Code Enforcement

Mr. Powers said that he moved to the city of Indianapolis in 2001 and served under Mr. Plambeck in the Division of Compliance. He said that they have evolved into the Office of Code Enforcement (OCE) and have consolidated many of the functions into this one department. He said that they oversee 27 different business licenses, including contract licensing, construction permitting, infrastructure and building, zoning enforcement, forestry, weights and measures, air quality, and illegal dumping. He said that they know which direction they are headed in this year.

Councillor Evans asked about the process for confronting a violation. Mr. Powers said that the notification that someone is in violation could come from several different avenues, which includes the Mayor's Action Center (MAC), a citizen, a neighborhood leader, a Councillor, or anonymously. Once the notification is received, it is assigned to an inspector who will review the property relative to the current zoning code. A notice of the violation is sent to the property owner regarding any violation that was noticed. The notice is a letter asking for cooperation from the owner to abate the conditions or to take the necessary steps to legalize the business. Mr. Powers said that if there is a refusal, then the next step would be to issue a citation; and if the citation is denied, then they would have to appear in court. Councillor Evans asked for an example of when an inspector would bring the police into an inspection situation. Mr. Powers said that an inspector would involve the police if they felt their safety was at risk.

Chairman Smith asked what some of the businesses are that fall under this department. Mr. Powers said that they range from adult entertainment-related business, adult escorts, massage parlors, pawn shops, hotels, taxis, horse drawn carriages, and the food cart vendors. He said that there is not a general business licensing provision in Marion County, but there are 27 separate businesses that OCE has an interest in because of the sensitivity toward public safety or quality of life.

Mr. Pace asked how many people will be assigned to the Board of Code Enforcement, and if the neighborhood associations will be involved with this board. Mr. Powers said that there are two Mayoral appointments and two Council appointments, as well as the Director of OCE, that sit on this committee. He said that this board will have some involvement from the neighborhood associations. Mr. Pace said that MCANA supports Mr. Powers' appointment.

Councillor Cardwell moved, seconded by Councillor McHenry, to send Proposal No. 5 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 5-0,

PROPOSAL NO. 6, 2010 - appoints James T. Kienle to the Indianapolis Historic Preservation Commission

Mr. Kienle said that he is a resident of the historic district of Lockerbie Square. He said that he is a practicing architect specializing in historic preservation. He has been a resident of Indianapolis for 33 years and has been actively involved in major projects around the city. Mr. Kienle said that nationally he is with Moody Nolan Architects. Mr. Kienle said that he has served on IHPC since 1997 and has enjoyed being a part of that commission.

Chairman Smith asked if Mr. Kienle has attended all of the scheduled meetings for this commission. Mr. Kienle answered in the negative. He said that his job has caused him to miss two of the 12 meetings.

Councillor Cardwell said that there is a lot of great talent that serves the city on a volunteer basis because of their passion to give back to the community.

Councillor Brian Mahern moved, seconded by Councillor Cardwell, to send Proposal No. 6, 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 5-0.

PROPOSAL NO. 7, 2010 - appoints George W. Geib to the Indianapolis Historic Preservation Commission

Mr. Geib said that he is a professor at Butler University and he works as a historical researcher and writer in the field of Indianapolis History. He said that he has four books about the city and all of them touch on the environment, land use, and the historic features that make Indianapolis what it is. Mr. Geib said that he has been on the commission 20 plus years and has attended 11 or 12 meeting each year. He said that he has enjoyed taking the things that he has learned and serving on the board.

Councillor Cardwell moved, seconded by Councillor Brian Mahern, to send Proposal No. 7 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 5-0,

PROPOSAL NO. 8, 2010 - appoints Anthony J. Bridgeman to the Board of Code Enforcement

Mr. Bridgeman said that he works at the Children's Museum and is delighted to be appointed to the Board of Code Enforcement. He said that he has been in the community development industry for several years, and he is very familiar with the challenges that neighborhoods face in terms of quality of life. He said that he is very passionate about his job and volunteer opportunities working with neighborhoods and communities. He said that consolidating all of these services under one department makes good sense.

Councillor Cardwell asked if Mr. Bridgeman will be able to attend the meeting schedule for this board. Mr. Bridgeman answered in the affirmative.

Councillor Brian Mahern moved, seconded by Councillor Cardwell, to send Proposal No. 8, 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 5-0.

PROPOSAL NO. 9, 2010 - appoints Roberto A. Ramirez to the Metropolitan Development Commission

Mr. Ramirez said that he been a practicing attorney at Ice Miller for the last four years practicing in the bankruptcy and commercial transitions group. He said that he has not previously served with any portion of the Council or any part of the commission. He said that he views this as a way of giving back to the city. He said that he is originally from West Virginia, but he and his wife are settling in Indianapolis. He said that he appreciates the opportunity to be involved and he would

bring an outside perspective to the commission. Mr. Ramirez said that he would like the opportunity to be a part of moving the city forward.

Councillor Brian Mahern urged Mr. Ramirez if appointed to consider the proposals that come before him with great care, because his decisions can have significant impacts on to constituents.

Mr. Pace said that MCANA does not support Mr. Ramirez' appointment because he has not been in the city long enough to know the historical background of the communities and the day-to-day issues that they are faced with. Mr. Pace asked who selects the appointees for these boards and commissions. Chairman Smith said that some appointees are selected by the Councillors and by the Mayor. Councillor Cardwell said that people are always welcome to call the Council's Office and submit names to be considered. He said that they are always looking for people who are willing to serve and share their expertise on many of the different boards throughout the city. Mr. Pace asked if this appointment will replace Randy Snyder. Chairman Smith said that if he is going to be replaced, it would have to be voted on by the Council. Mr. Pace said that it would be a disservice to replace Randy Snyder.

Councillor McHenry asked what other organization Mr. Ramirez is a part of. Mr. Ramirez said that he is very active with martial arts in the city. He said that he also helps with some Hispanic festivals and has volunteered with Indiana Black Expo.

Clark Kahlo, citizen, asked if Mr. Ramirez is aware of the city's comprehensive plan. Mr. Ramirez answered in the negative. He said that he is familiar with some of the things surrounding the comprehensive plan in Indianapolis.

Councillor Evans asked if Mr. Ramirez has ever been involved with the Indianapolis Chamber of Commerce. Mr. Ramirez answered in the affirmative. He said that he is affiliated with the Hispanic Chamber of Commerce.

Councillor Brian Mahern asked if Mr. Ramirez has chosen to make Indianapolis his home. Mr. Ramirez answered in the affirmative.

[Clerk's note: The committee took a five-minute recess.]

Councillor McHenry moved, seconded by Chairman Smith, to send Proposal No. 9, 2010 to the full Council with a "Do Pass" recommendation. The motion failed by a vote of 1-4, with Chairman Smith casting the supporting vote.

PROPOSAL NO. 10, 2010 - reappoints Alan E. Retherford to the Metropolitan Board of Zoning Appeals, Division III

Mr. Retherford said that he lives in Franklin Township and has been married for 52 years and has four children. He said that he has served on the Metropolitan Board of Zoning Appeals for 16 years and was chairman of the board for 12 years. He said that he has lived here for 40 plus years. He said that he has a lot of institutional knowledge about this division.

Mr. Pace said MCANA does not support Mr. Retherford's reappointment.

Mr. Kahlo said that he does not support Mr. Retherford's reappointment. He read a document that supported his reason which is attached as Exhibit A.

Paula Light, citizen, said that she has serious concerns about the reappointment of Mr. Retherford. She read a document that supports her reasons for her concerns, which is attached as Exhibit B.

Councillor Evans said that he had an experience before Mr. Retherford where he was ignored, and this is a major issue. He said he will not support this reappointment.

Mr. Retherford said that when he was asked to come to be reappointed, he asked if there was someone else up for the appointment because he would step down. He said that he sometime does not always agree with what people want done but he is always fair in making his decision. He said that if a Councilor comes before the board, the Councilors receive special treatment because they represent a large number of constituents. He said that he did as good a job as he could have done.

Councillor Cardwell moved, seconded by Councillor McHenry, to send Proposal No. 10, 2010 to the full Council with a "Do Pass" recommendation. The motion failed by a vote of 1-4, with Councillor Cardwell casting the supporting vote.

Chairman Smith said that on behalf of the Metropolitan Development Committee, they greatly appreciate all of the appointees and the services that they provide for the citizens of Indianapolis.

PROPOSAL NO. 11, 2010 - appoints Tasha M. Phelps to the Metropolitan Development Commission

Ms. Phelps said that she is a business owner and has been in business for 12 years in the city of Indianapolis. She said that her business is an information technology company, and the company has been able to achieve some growth in the economic crunch. She said that one of her passions is economic development and empowerment for small and medium sized local businesses. Another passion is the growth of education and exposure to opportunities and information. She said that working in technology, there is a significant technological influence on everything that she does. Ms. Phelps said that being in this industry she feels that it is her job to make sure the people understand they appropriately use those technological tools. She said that she is always looking for the opportunity to inspire and open up doors for the youth so that they understand what is available and how to achieve some of those goals. She said that she lives by the standard that exposure creates perspective. She said that she focuses a lot on the political environment to make sure she is aware of what is going on in this area. She said she is also involved with local neighborhood initiatives.

Councillor Evans asked if Ms. Phelps would be able to attend all the meetings. Ms. Phelps answered in the affirmative.

Chairman Smith asked what Ms. Phelps' opinion is on what has happened in the city of Indianapolis this far. Ms. Phelps said that the growth and the evolution of what is going on in the city of Indianapolis are phenomenal. She said that there is always room for improvement but what it is today is better than it was yesterday.

Councillor Brian Mahern asked how familiar Ms. Phelps is with the comprehensive plan. Ms. Phelps said that she is not familiar with it from the perspective of decision-making but she is familiar from the perspective of a business owner.

Mr. Pace asked how long Ms. Phelps has lived in the city of Indianapolis and how familiar she is with some of the issues pertaining to Indianapolis. Ms. Phelps said that she has lived in Indianapolis her entire life, with the exception of four years when she lived in Texas. She said that she is very familiar with how the economy has been hit and evolved. She said that she has lived on the Northwest side of town during her younger years and currently resides on the near Northeast side. She said that she is employed in downtown Indianapolis so she understands the downtown life as well. Mr. Pace asked if Ms. Phelps would be objective in making decisions about zonings. Ms. Phelps answered in the affirmative. She said that she is a citizen as well as a business owner in Marion County.

Councillor Cardwell moved, seconded by Councillor McHenry, to send Proposal No. 11, 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 5-0.

PROPOSAL NO. 29, 2010 - appoints Darryl "Troy" Bell to the Metropolitan Board of Zoning Appeals, Division II

Mr. Bell said that with ability comes responsibility, and as such, he is honored and privileged to be recommended for this appointment. He said that he has degrees in engineering, finance economics, criminology, and applied physics. He said that he has served seven year a police officer, which gave him the opportunity to understand the true nature of integrity, character and balance in the face of public service. He said that this year marks his 20th year in the public service sector, which includes everything from senior project engineering for the water and sewer department for projects over \$400 million to Director of Programs for the water management district for programs over \$400 million. Mr. Bell said that he has served as a member of the city commission on real estate on strategic uses. He said that position exposed him to strategic planning and the use of real estate with respects to businesses and neighborhoods.

Councillor Evans asked why Mr. Bell would like to serve on this board. Mr. Bell said that he has chosen to make Indianapolis his home. He said that he has a passion for Indianapolis because it is a small city on the verge of becoming a very large city. He said that he has lived in 17 different places and has traveled through every major city in the United States, which has given him the perspective on things that work and things that do not work. He said that he brings to the table the perspective of seeing how other cities operate. He said that even though he has not lived in the city of Indianapolis for a long time, he has experience in the area that will be discussed. He said that he does not have specific knowledge of the comprehensive plan in Indianapolis; however, he is a good student.

Councillor Evans asked Mr. Bell his thoughts about the Councilors who will speak on behalf of their constituents. Mr. Bell said that the Councilors are the direct line to the constituents, having been elected to that position. He said that if they bring an opinion that represents their constituents, it will weigh extremely heavy on the decision-making process because they have to take into

consideration what the people think and feel. He said that this way of doing things is the foundation of democracy.

Mr. Pace said that MCANA is not in support of this appointment.

Councillor McHenry asked if the students and the teachers that attend Imagine Schools, Inc. come from all over the city. Mr. Bell answered in the affirmative. He said that there are two schools, one on the Eastside and one on the Westside. He said that they can come from all over Indianapolis and Marion County.

Chairman Smith asked Mr. Plambeck what his feelings are about a fresh perspective working within the commission. Mr. Plambeck said that in the planning profession perspectives, from other cities are very important in orders not to make the same mistakes as other cities.

Councillor Cardwell moved, seconded by Councillor McHenry, to send Proposal No. 29, 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 5-0.

Conclusion

With no further business pending, and upon motion duly made, the Metropolitan Development Committee of the City-County Council was adjourned at 8:11 p.m.

Respectfully submitted,

Kent Smith, Chair
Metropolitan Development Committee

KS/rjp

**Remarks to City-County Council's Metropolitan Development Committee, 1-25-10
Proposal 10, 2010— re-appointment of Alan Retherford to BZA 3.**

Dear Councilors,

I have strong reservations about the re-appointment of Mr. Retherford to the Board of Zoning Appeals, Division 3.

No doubt Mr. Retherford is a fine gentleman, and active civically and politically. However, in my opinion, the quality of variance decisions has suffered under his appointment and current chairmanship. This is based partly based on the recent eye-opening comparative data compiled by the Marion County Alliance of Neighborhood Associations, and partly upon personal experience and observation over time. In addition, I've heard numerous complaints from neighborhood representatives about his decisions and demeanor over the past several years. Our faith in the efficacy and integrity of our variance administration process has suffered thereby.

1. First, the statistical voting record of Board 3 is demonstrably poor-- the worst of the three boards. Overall, it had a denial rate of only 7% in 2009. By comparison, the planning staff recommended denial in 68% of the cases. Variances are deviations from the enacted legal standards, and should only be approved when exceptional circumstances might justify, as defined by statute.

The planning division is the agency in which a very considerable taxpayer investment is made to professionally administer our system of zoning and guide our long-range plans in accord with established planning standards and best practices. (*Indeed, our 2008-adopted Regional Center Guidelines were about 5 years in the making-- and recently received a national "Best Practices" award from the American Planning Association*). But Board 3 clearly pays very little attention to the recommendations of the city's professional planning staff. Especially in these times, **it makes little fiscal sense to so heavily invest in a planning process, and then appoint and re-appoint people who are not willing or able to deny inappropriate variances of the zoning standards and requirements.**

2. Board chairpersons, including Mr. Retherford, often do much more than just preside at the hearings-- he/she can easily guide or influence the case in many direct as well as more subtle ways. And, under the Rules of Procedure, he/she is empowered to decide all points of order. In my, and others' opinion, Mr. Retherford too-often abuses the power of the chair.

(A recent example: Mr. Retherford arbitrarily decided a point of order in our November 24th hearing (2009-UV1-025, a transferred petition) in a commercial redevelopment variance case in which he unilaterally and brusquely rejected the remonstrators' reasonable request for an extra 5 minutes each of testimony—even when the opposing attorney had agreed to the additional time and even though the complex and controversial case requested **12 separate variances for the site**, and even though it was the **only case on the hearing docket**). He then allowed a series of repetitive Petitioner's witnesses to take unlimited extra time-- extending well beyond the time allotted.

The recent board voting data for 2009 (attached) were compiled by the Marion County Alliance of Neighborhood Associations. Unfortunately, apparently neither the City Planners nor any of the 3 appointing entities (Mayor, Council, or MDC) have *ever* compiled/made public such comparative voting statistics which provide a quantitative indicator of actual performance. *The city should take a much more proactive oversight role to ensure accountability. (Recently, the planning administrator indicated that the planners plan to start such a compilation using new software which, assertedly, facilitates and eases the task of compilation of voting data. We'll see if they are serious about this).*

3. I understand Mr. Retherford is a real estate developer and farmer/land owner. While those pursuits should not automatically disqualify a person as a result of lack of impartiality, it certainly affects his decisions, as a practical matter. His son is an Indianapolis attorney who often advocates in zoning cases before our local boards.

Mr. Retherford participated on the Economic Development Committee of the Comprehensive Plan update. (The August, 2001 Report of the Committee carried a letter from its Chair (Abbe Hohmann): She opined that "regulation needs to adequately protect the public health, safety and general welfare, but must not impose undue restrictions to development. Therefore, future regulation should be based on proven, objective requirements and not subjective criteria." One wonders if Mr. Retherford, considering his affinity for economic development, also strongly believes (similar to the two recently departed Council-appointed Board 2 appointees— Messrs. Klopfenstein and Walker) that zoning requirements, by their nature, unduly restrict property use.

I've previously written to the Planning administrator and City Legal that the boards of zoning appeals seem to be comprised entirely or mostly of people employed in the finance, insurance, real estate industries, and/or are closely aligned with politics. Too often, folks in these businesses share a philosophy advocating minimal or non-regulation of land use, and thus are not likely, or even able, to make impartial decisions based on the state statute's criteria and the factual situation. **Decision-making based on political or economic ideology flies in the face of the statutory mandate— i.e that the petitioners must prove that the statutory requirements are met in order to be given a variance. Also, there are national studies which conclude that boards which are too heavily constituted with development-oriented folks do not represent the needs and desires of the community. (For instance: <http://www.abanet.org/statelocal/urbanlawyer/40-4abst.html>. This study was first undertaken in 1937 and showed an overrepresentation by developers and professionals on the Boards across America – and not a true representation of the community).**

4. Most importantly, I do not feel that Mr. Retherford demonstrates leadership or proper responsibility/accountability because he obviously does not believe that the petitioners must prove the specific statutory requirements, as required by state law. As a result, I do not believe that Mr. Retherford has faithfully executed the oath of office which affirms, in part, that the appointee will make decisions impartially.

Finally, one city planner lamented to me recently that, to have a successful variance process, we need sufficient political will at the higher levels of the city— a will which, in their words, requires performance, and not just perpetuates pretense. It's not evident that the proposed reappointment of Mr. Retherford would demonstrate to a concerned and skeptical community that this Council has the necessary political will to improve an arguably dysfunctional process.

Clarke Kahlo

BZA I	# Hearings	Approve	Deny	Denial rate	Indecisive	Recused
Overall	41	35	6	15%	0	
Staff		10	31	76%		
Council Appointees						
Pool	17	14	3	18%		
Symons	28	24	4	14%		
Mayoral Appointees						
Romine	38	30	8	21%		
Shead	17	10	7	41%		3
MDC Appointee						
Taft	34	28	6	18%		
Other						
Halbrook	28	23	5	18%		

BZA II	# Hearings	Approve	Deny	Denial rate	Indecisive	Recused
Overall	61	49	11	18%	1	
Staff		20	40	67%		
Council Appointees						
Klopfenstein	67	64	3	5%		1
Walker	64	60	4	6%		
Mayoral Appointees						
Van Keppel	63	45	18	29%		
Worgan	29	10	19	66%		
MDC Appointee						
Pritchard	54	34	20	37%		

BZA III	# Hearings	Approve	Deny	Denial rate	Indecisive	Recused
Overall	42	38	3	7%	1	
Staff		13	28	68%		
Council Appointees						
Retherford	47	40	7	15%		
Westrick	51	40	11	22%		2
Mayoral Appointees						
Kasper	30	28	2	7%		
Hash	23	17	6	26%		
MDC Appointee						
Moriarty	48	42	6	13%		2

Exhibit B

I'm Paula Light and I would just like to take a few minutes to share my observations about a recent case that came before Board 3 on Nov. 24th 2009. This was a very controversial case in my neighborhood. Here are a few of my observations of how Board 3 handled this case. If you have any doubt of my concerns, please refer to the archives on channel 16.

1) I appeared as a remonstrator, before Board 3 on Oct. 27 because the petitioner had changed their site plan. I offered two dates in November that were agreeable with the remonstrators, and well before the Thanksgiving holiday so both sides could get on with their lives and enjoy the holidays. The petitioner's attorney quickly protested and asked for Nov. 24th. When I stated that date would not work for the remonstrators, because our main speaker and many of the neighbors would be out of town, I was told that it was a holiday for the board too, and Mr. Rutherford refused my request with no other explanation.

2) Mr. Rutherford allowed the petitioner's attorney to rant and rave in the background at one point, insinuating I was not honest, that I was jerking him around etc. Mr. Rutherford allowed this inappropriate behavior to continue and did nothing to Intervene, damaging my character as a remonstrator!

3) No one from the board asked any questions of the parking engineer after his presentation. This engineer raised several significant questions regarding lack of parking and public safety.

4) Mr. Rutherford totally ignored issues of safety, including obstruction of the clear sight triangle, parking across a public sidewalk, pushing pedestrians and cyclists

into the street, encroaching on the public sidewalk and the shortage of parking on site.

5) Mr. Rutherford did not raise any questions about compliance with the three specific state statute criteria for granting a variance.

6) During the hearing when the petitioner's supporters broke out into an extended applause on two occasions, Mr. Rutherford failed to call them back to order.

In summary, we want our boards to do their jobs and to be accountable, by following the state statutes, showing no preferential treatment to petitioners nor to remonstrators. I do not believe Mr. Rutherford meets those standards and should not be reappointed to the Board of Zoning Appeals.